

### REMARKS

Reconsideration of this application is requested.

Will the Examiner please indicate whether the drawings submitted for Figs. 4-7 on July 9, 2002, are acceptable.

Claims 1, 3-7, 9-17 and 19-24 have been rejected by the Examiner under 35 USC §103(a) as being unpatentable over Rosenberg, et al. (U.S. 6,363,357 B1) in view of Woolston (U.S. Patent No. 5,845,265).

Rosenberg discloses the following in column 11, lines 1-34:

"The online payment system 100 can be provided with further functionality by permitting the merchant 106 to specify in the header 202 multiple prices/rates (e.g., an individual rate and a corporate rate). The plug-in 178 would present to the buyer 102 on display 123 the option of selecting from an individual rate or a corporate rate. If the corporate rate option were selected, the buyer 102 is provided with the details of various corporate rates that are based on the number of copies of the procured item the corporation desires to distribute within their corporation (e.g. 50, 100, unlimited). The buyer 102 then selects the desired rate and the payment process continues in the manner previously discussed. This feature overcomes the dilemma faced by many corporations who obtain an article of interest and then wish to circulate copies throughout the organization. Because of the copyright laws, the corporation needs to obtain the right to make and distribute such copies. The rights can be obtained by signing up with a clearing house or contacting the owner of the copyright directly. The instant invention provides a real time capability for corporations to easily obtain rights for the distribution of multiple copies of an item on an item by item basis. As an alternative to the actual rates being displayed a pointer can be set forth which allows the buyer access to a rate table or algorithm at the server so that rate information is easily obtained."

Rosenberg does not disclose or anticipate the system and method claimed by Paragraph (vi) of claim 1 and step e) of claim 17, and those claims dependent thereon. Rosenberg does not disclose or anticipate a system or method to credit the monetary sum to the seller's account, wherein the fee for downloading the data item has a range specified by the seller and defined by a maximum amount, and a minimum amount

wherein the maximum amount is the fee posted by the seller, and a minimum amount is what the seller is willing to collect from the buyer for downloading the data item so that the buyer is allowed to download the data item if the buyer's proposed monetary sum for downloading the data item is greater or equal to the minimum amount specified by the seller.

Rosenberg does not disclose or anticipate a system or method deducting a monetary sum from the fund and crediting the deducted sum to the seller, wherein the fee for downloading the data item in its entirety has a range specified by the seller and defined by a maximum amount, and a minimum amount wherein the maximum amount is the fee posted by the seller, and a minimum amount is what the seller is willing to collect from the buyer for downloading the data item so that the buyer is allowed to download the data item if the buyer's proposed monetary sum for downloading the data item is greater or equal to the minimum amount specified by the seller.

Rosenberg gives the buyer the option to select multiple price rates that depend upon whether the buyer is an individual or corporation and the number of copies the buyer is going to purchase; whereas, the fee for downloading the data item claimed by Applicant has a range specified by the seller and defined by a maximum amount and a minimum amount, wherein the maximum amount is the fee posted by the seller, and the minimum amount is what the seller is willing to collect from the buyer for downloading the data items so that the buyer is allowed to download the data item if the buyer's proposed monetary sum for downloading the data item is greater or equal to the minimum amount specified by the seller. Applicant is claiming a system that allows the buyer to negotiate a rate with the seller.

For instance, the seller may say he/she wants \$1.00 for the item, and the buyer may propose \$.85. If the \$.85 is within the seller's range, the item is purchased. However, if the \$.85 is not within the seller's range, the item is not purchased.

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Claim 9 adds to the above concept of negotiating rates by utilizing a software program to automatically check the offered price by the buyer to determine whether the posted offer falls within the range specified by the seller. Claim 19 also compares the offered price to determine whether the offered price falls within the fee range specified by the seller.

Rosenberg's rates are fixed, and are based upon a "take it or leave it" concept.

Woolston discloses the following in lines 45-57 of column 13:

"It is also understood that a participant may make an offer on a good below the asking (or offered) price. Such a proposed offer may be stored by the consignment node and used to notify the good owner. The good owner may then accept the counter offer or reject. It is understood that a participant counter-offer may be made subject to an acceptance before date. It is also understood that a participant may establish a "buy at" or "sell at" price/quantity for any good in the market."

Neither Rosenberg nor Woolston, taken separately or together, discloses or anticipates the invention claimed by Applicant. They do not automatically check the offered price by the buyer to determine whether the posted offer falls within the range specified by the seller.

In view of the above, claims 1, 3-7, 9-17 and 19-24 are patentable. If the Examiner has any questions, would he please contact the undersigned at the telephone number noted below.

Respectfully submitted,



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